IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Crl.Rev.Pet.No. 224 of 1999()

CRA.29/1994 of ADDL.SESSIONS COURT, KOTTAYAM
CC.62/1992 of JUDL.MAGISTRATE OF FIRST CLASS-I, KANJIRAPPALLY

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REVN. PETITIONER:

RAJU, S/O.AYYAPPAN, NELLIKKAPPALLIYIL VEEDU,
KANCHIYAR KARA,
KOONTHAL VILLAGE.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENT:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 24/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.828/1999 IN CRL.R.P.NO.224/1999

CLOSED

SD/- K.R.UDAYABHANU, JUDGE

24/07/2007

\\TRUE COPY//

K.R.UDAYABHANU, J.

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Crl.R.P.No.224 of 1999

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Dated this the 24th day of July, 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 279 and 304 A of the Indian Penal Code and sentenced to undergo rigorous imprisonment for six months for the offence under Section 279 I.P.C and to undergo rigorous imprisonment for one year for the offence under Section 304 A of the I.P.C.

2. The prosecution case is that the revision petitioner being a driver of KL.5/4676 bus, drove the same in a rash and negligent manner so as to endanger human life through K.K.Road from east to west on 27/10/1991 and hit the deceased who was standing on the northern side of the road and that the victim died on the spot. The evidence adduced in the matter consisted of the testimony of PWs.1 to 13, Exts.P1 to P14 and Exts.D1 and D2, the portions of Section 161 Cr.P.C statement of PW.2 which got marked by the defence when examined in cross.

3. The counsel for the revision petitioner has pleaded only for modification of the sentence pointing out that the incident has taken place in the year 1991 and that so many years have elapsed since the commencement of the proceedings and that the revision petitioner has been facing the ordeal of the criminal proceedings so far. It is also pointed out that the legal heirs of the deceased have obtained compensation from the M.A.C.T.

4. The evidence adduced in the matter has been considered by the courts below in a detailed manner. It is evident from the testimony of the witnesses that the incident took place on the extreme wrong side of the bus. The explanation that the place of incident is a gradient after a turning, is no justification for driving a vehicle through totally on the wrong side and hitting on the pedestrian who was standing on the side of the road. Nothing has been brought out nor is there any discrepancies in the version of the occurrence witnesses. In the circumstances, I find no reason to deviate from the findings of the court below so far as the conviction is concerned.

In the circumstances, the sentence is modified to imprisonment till the rising of the court and to pay a compensation of rupees twenty thousand to the legal representatives of the deceased for the offence under Section 304 A I.P.C and in default to undergo simple imprisonment for six months. Three months time is granted to the revision petitioner to remit the compensation amount. He shall appear before the Judicial Magistrate of the First Class, Kottayam, on 30/10/2007 to receive the sentence. No separate sentence is awarded for the offence under Section 279 I.P.C.

K.R.UDAYABHANU,
Judge

24th October, 2007

When the matter came up for to be spoken to today it is seen that the name of the Magistrate Court was wrongly noted as the Judicial Magistrate of the First Class, Kottayam, instead of Judicial Magistrate of the First Class, Kanjirappally. In the circumstances, it is clarified that the accused shall appear before

the Judicial Magistrate of the First Class, Kanjirappally, on 23/11/2007 to receive the sentence.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.224 of 1999

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O R D E R

24th July, 2007